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| 09/787,683 | 03/21/2001 | John J. Daniels | JJD-032201 | 7574 |

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EXAMINER

LAYE, JADE O

| ART UNIT | PAPER NUMBER |
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2623

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,683

Applicant(s)

DANIELS, JOHN J.

Examiner

Jade O. Laye

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

I. Applicant's amendment, dated 2/1/06, has been entered and made of record. Accordingly, the objection applied in the previous Non-Final Action has been withdrawn.

Response to Arguments

II. Applicant's arguments filed 2/1/06 have been fully considered but are unpersuasive. Accordingly, **THIS ACTION IS MADE FINAL.**

Applicant argues, "every reference cited by the examiner has an effective filing date that is subsequent to the priority date of the claimed invention." (Response, Pg. 8). However, Applicant is mistaken and appears to have overlooked a very fundamental aspect of patent practice – "priority."

Each and every reference cited by the Examiner does, in fact, have an effective filing date which predates Applicant's September 1998 priority date. *Ellis* has priority back to July and August of 1998 (note: priority document is attached), each *Allport* reference has priority back to December of 1997, and *Elkind* has priority back to April of 1996. In the interest of full disclosure, it should also be noted the Examiner considers the cited portions of *Ellis* used in the previous rejection to be supported in *Ellis*'s broad, albeit brief, priority document. Accordingly, Applicant's arguments are unpersuasive and, therefore, the Examiner maintains the position of the Non-Final Action dated 1/25/06.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

III. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by *Ellis et al.* (US Pat. Pub. No. 2005/0028208).

As to Claim 1, *Ellis* discloses a wireless display terminal for use with a multimedia network comprising a television distribution facility (i.e., transceiver node), both of which facilitate the bi-directional transmission of control, display, and audio/visual data. Moreover, the display terminal comprises a housing member and is capable of sending various control signals (i.e., request programs, alter features, etc.) to the distribution facility and vice versa. (Abstract, Pars. [0014-0017, 0068, 0077, 0092-0094, 0135, & 0170; Figs. 1-2d). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 1.

The limitations of Claim 8 are encompassed within those of Claim 1. Thus, it is analyzed and rejected as previously discussed.

As to Claim 2, *Ellis* further discloses the system can transmit graphical data. (Par. [0115]). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 2.

As to Claim 3, *Ellis* further teaches the wireless terminal device (i.e., remote terminal device) can be touch-sensitive. (Par. 0092)]. Accordingly, *Ellis et al* anticipate each and every limitation of Claim 3.

As to Claim 4, *Ellis* further discloses the wireless terminal device can comprise a trackball, pressure sensitive keyboard, etc. (Par. [0092]). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 4.

As to Claim 5, *Ellis* further teaches the wireless terminal comprises a transceiver along with infrared or RF capabilities. (Pars. [0093 & 0094]). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 5.

As to Claim 6, *Ellis* further teaches the wireless distribution facility (i.e., node) can be hardwired to the program guide distribution equipment. (Par. [0068]). Furthermore, it is clear from the citations used under Claim 1, the distribution facility comprises a computer for communicating various control, display, and audiovisual data to the remote terminal. Accordingly, *Ellis et al* anticipate each and every limitation of Claim 6.

As to Claim 7, *Ellis* further teaches the distribution facility transmits audio and video signals to the communications device 27 (i.e., terminal side wireless transceiver). (citations of Claim 1). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 7.

Claim 9 corresponds to Claim 7. Thus, it is analyzed and rejected as previously discussed.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

IV. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* in view of *Allport*. (US Pat. No. 6,104,334).

Claim 10 recites the system of Claim 1, further comprising device remote control signal generating means for generating remote control signals effective for controlling appliances receptive of such controls. As discussed above, *Ellis et al* anticipate each and every limitation of Claim 1, but fail to disclose those of Claim 10. However, within the same field of endeavor, *Allport* discloses a similar system which comprises a remote terminal capable of controlling various appliances. (Abstract; Col. 4, Ln. 28-39). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Ellis* and *Allport* to provide a remotely accessible multimedia system which allows for practical household use also.

V. Claims 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* in view of *Allport*. (US Pat. No. 6,567,984).

Claim 11 recites limitations which are too numerous to recite herein. However, each limitation will be addressed in turn. All limitations of Claim 11 are encompassed and/or are paralleled in Claim 1. However, Claim 11 adds limitations directed toward receiving a first and second wireless data signal, while said second data signal is received simultaneously with the first data signal, thereby producing a picture-in-picture display.

As addressed above, *Ellis et al* anticipate each and every limitation of Claim 1, but fail to disclose the use of a picture-in-picture display. However, within the same field of endeavor, *Allport* discloses a similar system which utilizes a picture-in-picture display (i.e., simultaneously

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displaying a first and second wireless data signal). (Col. 2, Ln. 67-Col. 3, Ln. 15). Although *Allport* may be interpreted as not disclosing two “receiving means,” such a system would be an obvious variant of the disclosed system. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant’s invention to combine the systems of *Ellis* and *Allport* in order to provide a hand-held viewing unit which allows for the viewing of multiple channels simultaneously.

Claims 12, 13, 14, and 15 correspond to Claims 3, 6, 7, and 10, respectively. Thus, each is analyzed and rejected as discussed therein.

The limitations of Claim 16 mirror those of Claim 11. However, Claim 16 also recites the use of digital data being displayed in a first portion of the display screen and analog data being displayed in the second portion. As discussed above, the combined systems of *Ellis* and *Allport* render obvious all limitations of Claim 11, and *Ellis* further teaches the use of both digital and analog data. (Par. [0069]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 16.

The limitations of Claim 17 are encompassed within those of Claim 1. Thus, it is analyzed and rejected as discussed therein.

As to Claim 18, *Ellis* further teaches the system can simultaneously display programming data (which could be analog or digital) and associated Internet data. (Par. [0067]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 18.

As to Claim 19, *Ellis* further discloses that the hand-held device has local storage. (Par. [0092]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 19.

VI. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* in view of *Allport* as applied to Claim 16 above, and further in view of *Elkind*. (US Pat. No. 6,119,258).

Claim 20 recite the display device of Claim 16, further comprising limitations too numerous to recite herein. However, each limitation will be addressed in turn. As discussed above, the combined systems of *Ellis* and *Allport* render obvious all limitations of Claim 16, but fails to disclose those of Claim 20. However, within the same field of endeavor, *Elkind* teaches a video error/distortion checker to catch error in video signals. (Col. 1, Ln. 56-59). Although *Elkind* teaches a detecting means for detecting poor video signal quality, *Elkind* does not expressly teach a retrieving means as recited in Claim 20. However, the Examiner takes Official Notice that, at the time of Applicant's invention, both the concept and advantage of buffering a video signal to replace corrupted frames with good frames was well known in this art. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the combined systems of *Ellis*, *Allport*, and *Elkind*, thereby providing more reliable picture quality.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. LayeInitials: JK

March 30, 2006.



CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600